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HUMAN RIGHTS COMMITTEE

Fifty-first session

SUMMARY RECORD OF THE 1326th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 7 July 1994, at 3 p.m.

Chairman: Mr. ANDO

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GE.94-17529 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Togo (CCPR/C/63/Add.2; HRI/CORE/1/Add.38) (continued)

1. At the invitation of the Chairman, Mr. Assouma, Mr. Gnondoli and Mr. Kpostra (Togo) took places at the Committee table.

2. The CHAIRMAN invited the members of the Committee to continue their questions on section I of the List of issues.

3. Mr. BAN said that the delegation's very detailed introduction had given him the impression that it was prepared to admit that serious human rights violations had been committed since the submission of the second report. However, the delegation had stated that those violations had been committed not by Government forces, but by people outside Government control, during tribal clashes. In that connection, he drew the delegation's attention to article 2, paragraph 1, of the Covenant, which stipulated that State parties undertook to respect and to ensure to all individuals within their territory the rights recognized in the Covenant. It would be quite dangerous to consider that the State party was not responsible for violations committed by people outside Government control, such as members of the political opposition. The Togolese Government had the obligation not only to respect human rights, but also to do everything in its power to prevent other sectors of society from violating those rights and, in any event, it was its duty to seek and prosecute those responsible for violations. Nevertheless, not all the human rights violations were attributable to people outside the Government. For example, there were reports from various sources of camps set up by the authorities in which the detainees were subjected to ill-treatment.

4. Like other members of the Committee, he had doubts concerning the full conformity of the Constitution with the Covenant. There were indeed several deficiencies; for example, article 26 of the Constitution provided for the possibility of restricting freedom of expression and article 37 appeared to limit the prohibition against discrimination in the workplace.

5. It would be useful to have some clarifications on the Covenant's actual position in internal law, in particular whether it was possible to refer directly to the provisions of the Covenant in the courts. The provision establishing the Constitutional Court required some additional information. The functions of the Court, about which it was not clear whether it had already been established or was simply in the planning stage, were, in addition to verifying the constitutionality of laws, to guarantee fundamental rights and ensure compensation in cases of violation. He would appreciate the Togolese delegation's indicating the procedures that had been laid down for that purpose.

6. Mr. FRANCIS said he shared the regret of other members of the Committee that the report was merely a list of legislative provisions referring to the articles of the Covenant and that it said nothing of the actual situation in Togo, thus forcing the Committee to turn to other information sources, in particular non-governmental organizations, more than it would like.

7. The complexity of Togo's ethnic make-up as described in paragraphs 2 and 3 of the core document (HRI/CORE/1/Add.38) implied that Togo was not an easy country to govern. The fact that the army was dominated by a single ethnic group could only make matters worse. It was against that background that the very serious violations of the Covenant attributable to the army must be considered. It appeared that 20 prisoners had died in detention as a result of torture, two political prisoners had been sentenced to prison terms on the basis of evidence extracted under torture, 20 persons had allegedly been executed extrajudicially by the security forces, at least 20 others, both soldiers and civilians, had reportedly been summarily executed following an attack against a Togolese army barracks, and there had been numerous arbitrary arrests of members of the opposition, particularly in areas favourable to the current President. He wondered how the Togolese delegation could explain such serious violations and how it could justify the fact that there was no mention of them in the third periodic report.

8. In view of the country's ethnic composition, he would like to know whether the deputies of the National Assembly were elected by simple majority or according to proportional representation.

9. With regard to the National Human Rights Commission, he noted that, according to paragraph 49 of the core document (HRI/CORE/1/Add.38), it was forbidden to intervene in a judicial proceeding, "except in the event of a miscarriage of justice", and he wondered what steps the Commission was empowered to take in such a case; was its action limited to a mediating role or could it assist the complainant, for example through legal aid? Information on the cases with which the Commission had dealt so far would be useful, since paragraph 51 of the core document simply indicated that the Commission had produced two reports, without indicating the number and nature of the complaints received and the results of the Commission's action. In view of the serious human rights violations actually occurring in Togo, it might be wondered whether it would not be justified to expand the powers of the National Human Rights Commission in order to make its decisions enforceable.

10. Article 158 of the Constitution stipulated that the composition, organization and operation of the Commission were determined by an organizational act; it would be useful to know the contents of the act.

11. He hoped that the next report of Togo would be prepared in such a way as to raise fewer questions among the members of the Committee than the second.

12. Mr. BRUNI CELLI joined the members of the Committee who had stressed the obvious contradiction between the goals pursued by the Togolese Government and its achievements. The Government had proved its commitment to a certain human rights ideal and initiatives such as the establishment of a Ministry of Human Rights and a National Human Rights Commission were too rare not to be given due praise. It was therefore difficult to explain the very numerous and serious violations of fundamental human rights - extrajudicial executions, illegal arrests, construction of detention camps and practice of torture - attested by numerous sources, including non-governmental organizations, but also by special rapporteurs of the United Nations Commission on Human Rights,

and he awaited the opinion of the Togolese delegation with interest. In fact, one of the very objectives of dialogue with States parties was to detect the difficulties that States might encounter in implementing the Covenant.

13. Mr. ASSOUMA (Togo) said he would attempt to reply to the many questions of the members of the Committee, which his delegation had grouped according to subject. First of all, the presence of his delegation at the height of the economic crisis was, as Mr. Ndiaye had remarked, an indication of the Government's willingness to pursue a dialogue with the Committee.

14. With regard to the composition of the army, the opinion spread about by the media, to the effect that it was composed exclusively of members of the ethnic group of the current head of State, needed to be corrected. The Togolese Government had sent the secretariat documents containing replies it had made on that issue to Amnesty International and the International Federation of Human Rights and it was surprising that no mention of them had been made. During the colonial period, the French army, based in then-Dahomey had combed Togo to recruit soldiers. The population in the south of the country, considered to be the elite of Togo, had refused to serve in the armed forces and recruitment had therefore focused on the north, and that explained why a great number of the troops belonged to the ethnic group of that region. It had not been until the arrival of the current head of State, in 1967, that an effort to rebalance the situation had begun. A commission was currently recruiting throughout the territory and the national army now had members from all ethnic groups. With the restructuring that had recently begun, there was every reason to believe that a full balance would soon be achieved.

15. The presidential and legislative elections had been organized by the opposition, then in power. There had been four candidates for president, i.e. the incumbent and three candidates from the opposition. During the electoral campaign, all of them had complied with the provisions of the electoral code and the reason why the date of the elections had been postponed three times had been precisely because certain candidatures had been incomplete. Subsequently, as a means of pressure, two opposition candidates had withdrawn their candidatures and the third had dropped out on the eve of the elections. As a result, the incumbent president had naturally been the only remaining candidate. It should be noted that, during the ballot, security had been provided for by a special gendarmerie and police force and that the army had not intervened. The legislative elections had been organized with the participation of all the parties, including the opposition parties, and the three main opposition parties were now represented in the National Assembly. The elections had taken place normally, despite the boycott by part of the voters as a result of the candidates' withdrawals.

16. With regard to inter-ethnic conflicts, it had to be acknowledged that there had always been opposition between the people of the north and those of the south and that clashes had occurred before the elections. Certain communities, despite having lived together harmoniously for years, had suddenly clashed because of threats against them by the military; the clashes had caused serious property damage and many deaths. However, once things had calmed down, most of the displaced persons had returned to their homes and the people now wished to live in peace, as the international community had seen. Regarding the role of the army, violations had certainly been committed

because of the opposition between democrats and non-democrats and it had not been possible to make all the necessary investigations for lack of a sufficiently structured judiciary, but there was no doubt that once the new Government was set up, those responsible would be punished.

17. The current Constitution had been adopted in 1992, but it was not yet being applied because the national institutions were not yet fully in place. The Government had been elected, but the Parliament had not yet established the Constitutional Court, whose functions were temporarily being carried out by the constitutional chamber. Similarly, it was still necessary to establish an economic and social council and a department of audiovisual matters and gradually set up all the institutions necessary for a democratic country determined to move forward.

18. The National Human Rights Commission was a State-established institution, but its independence was ensured, as attested by the fact that its current President was one of the main opposition leaders. In addition, the Parliament was soon to enact a law amending the act establishing the Commission, in order for its composition (13 members) accurately to reflect the new situation prevailing in the country, in particular the diversity of political parties and the democratization of institutions.

19. Mr. GNONDOLI (Togo), referring to the Covenant's position in relation to the Togolese Constitution, said that Togo's legal tradition was French and that international instruments ratified or approved by Togo therefore took precedence over the internal legal order, the only reservation being with regard to bilateral agreements. It was therefore possible to refer to the provisions of the Covenant in the courts. Provisions not explicitly included in the Constitution prevailed in practice and no misunderstandings were possible. Regarding derogations, although the Constitution did not contain explicit provisions on the matter, article 4 of the Covenant was applied and the authorities could not in practice restrict the exercise of civil rights from which no derogation was permitted, such as the right to life and the right to freedom of thought, conscience, etc. On the other hand, the law did provide for restrictions on the exercise of certain freedoms for reasons of public order, as authorized by the Covenant. Article 94 of the Constitution stipulated that a state of siege or emergency had to be decreed by the President of the Republic with the approval of the National Assembly. In practice, no state of siege had been proclaimed in Togo since 1986. Following the events of 6 January 1994, a 7 p.m.-6 a.m. curfew had been imposed for two or three days, but that measure could not be compared to the imposing of a state of siege or emergency.

20. Concerning the rights of women, he said that the practice of excision had indeed existed in the Muslim communities in the country, but was decreasing, and that the traffic in women was not a widespread practice in Togolese territory. He also doubted that trafficking in children was a widespread practice in the country.

21. Concerning the suspension of the application of the Constitution, he explained that the Constitution had been replaced several times and then suspended from 1967 to 1979. The last Constitution had been drafted in 1991 and adopted in 1992.

22. Mr. KPOSTRA (Togo) said that the traffic in women was not unknown in Togo. A few cases had indeed been reported and the Government had made every effort to eliminate such practices. An inter-ministerial body was to be established to study means of combating the traffic in women, but the authorities had encountered other problems, such as freedom of movement. He stressed, however, that those were isolated acts and that steps had been taken to end them.

23. Concerning racial discrimination, there were certain gaps in the Constitution, but the precedence of international legislation over internal laws and the fact that direct reference could be made to international legislation in the courts provided the Togolese authorities with sufficient means for dealing with any problems that might arise in that connection.

24. Referring to the controversy that had developed over the question of independent international observers invited by the Togolese Government during the electoral period, he said that it was not for the Committee to make a judgement on the status of those observers.

25. Noting that one member of the Committee had stated that, if the provisions of article 147 of the Constitution were not respected, the Constitution should be considered as having been violated, he explained that the new Constitution, which had been adopted in September 1992, but was not yet fully in application, reflected the ideals and aspirations of the members of the Constitutional Commission and he stressed that the contents of article 147 had to be assessed in the context of the situation in Togo during the last three years. The situation had since changed and the Government had established a programme of action which provided, in particular, for granting priority to the advancement of women and redefining the role and functions of the army within the nation.

26. Mr. AGUILAR URBINA said he wondered about the Togolese Government's interpretation of the provisions of article 4 of the Covenant. He noted that the delegation had stated that the Constitution had been suspended from 1967 to 1979 and that there had been a state of emergency during that period, whereas the report said that there had never been a state of emergency in Togo.

27. He was also concerned at the fact that the Constitution was not yet fully in application and he feared that the provisions that were not yet in force were precisely those that concerned the implementation of the Covenant. He also wondered about the cumulative functions of Mr. Assouma, who was both the current President of the National Human Rights Commission in Togo, a member of the Supreme Court and a representative of his country's executive power, and it was not clear how, under such conditions, Mr. Assouma could defend his country's report with full independence.

28. Mr. NDIAYE drew attention to an inaccuracy in the remarks of the Togolese delegation, which had stated that international human rights instruments took precedence over the Constitution. He noted that the Togolese Constitution stated that international human rights treaties were an integral part of the Constitution and therefore had constitutional value, no more. With regard to the other treaties, article 139 of the Constitution stipulated that any

regularly ratified or approved treaty or agreement had a higher ranking than the laws, but did not have constitutional value. In addition, he noted that conformity was generally verified before the ratification or approval of a treaty. However, Togolese legislation provided for control of constitutionality only at the request of certain figures. In practice, therefore, treaties that were not in conformity with the Constitution could be ratified or approved.

29. Regarding the practice of excision, referred to by the Togolese representative, he would like to point out that that practice was in no way linked to Islam.

30. Lastly, concerning the army, he noted that relations between the Togolese national army and Togolese people were still extremely tense and he stressed that a multi-party democracy could be introduced only in the absence of any threat whatsoever from the army.

31. Mr. MAVROMMATIS said that he would like to know whether there were any laws or practices in Togo that reflected the direct application of recommendations made by the Committee during its consideration of communications.

32. Mrs. EVATT said that, when the Committee listened to the replies of the Togolese delegation, it should put itself in the shoes of the people whose rights were being threatened, for it was their interests that the Committee should be defending. The question at issue was whether the Government had made a genuine commitment to investigate the allegations of human rights violations, but Togo's reply on the matter had not been clear.

33. Mr. ASSOUMA (Togo), replying to Mr. Aguilar Urbina concerning the compatibility between his appearance as representative of Togo and his other functions, explained that he had been Vice-President of the National Human Rights Commission since 1987, but that the second periodic report of Togo had been drafted by an inter-ministerial committee at a time when he had not yet been working in the Constitutional Chamber. His independence was therefore above reproach.

34. Mr. KPOSTRA (Togo), referring to Mr. Mavrommatis' question, said that since the Optional Protocol had been regularly ratified by Togo, any recommendation by the Committee bound the Government directly. On another matter, he acknowledged that Mr. Ndiaye was right about the superiority of international treaties, in the sense that their superiority was not applicable to the Constitution.

35. Lastly, returning to the question of human rights allegations raised by Mrs. Evatt, he said it was difficult to justify the lack of punishment, but that the Togolese Government acknowledged the facts.

36. The CHAIRMAN invited the Togolese delegation to reply to the 14 remaining questions in sections II and III of the list of issues to be taken up in connection with the consideration of the second periodic report of Togo (see M/CCPR/94/30). The sections read:

II. Rights to life, treatment of prisoners and other detainees, liberty and security of the person, and right to a fair trial (arts. 6, 7, 9, 10 and 14)

(a) Please provide information on the impact of the internal disturbances described in paragraphs 58, 59 and 64 of the core document on the exercise of the rights guaranteed under articles 6, 7, 9 and 14 of the Covenant.

(b) How often and for what crimes has the death penalty been imposed and carried out during the period under review? It is planned to revise the law with a view to reducing the number of offences currently carrying the death penalty (see para. 19 of the report)?

(c) What are the rules and regulations governing the use of weapons by the police and security forces? Have there been any violations of these rules and regulations and, if so, what measures have been taken against persons found guilty of such acts and what has been done to prevent a recurrence? What training programme has been elaborated for law enforcement officials in order to inform them of their obligations under the Covenant as well as of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials?

(d) During the period under review, have there been any complaints of extrajudicial executions, disappearances, torture or other inhuman or degrading treatment or punishment and arbitrary detention? If so, has any investigation been carried out in respect of such violations and has any action been taken by the authorities to punish members of the security, police and other forces found guilty of such acts (see paras. 58-59 of the core document)?

(e) Can confessions or testimony obtained under duress be used in court proceedings?

(f) In the light of the statement in paragraph 23 of the report, please describe any factors or difficulties which prevent the Government from complying with its reporting obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(g) In the light of the difficulties mentioned in paragraph 34 of the report, please clarify to what extent the United Nations Standard Minimum Rules for the Treatment of Prisoners are complied with. How have these provisions been made known and accessible to the police, armed forces, prison personnel and other persons responsible for holding interrogation as well as to persons deprived of their liberty?

(h) Please provide information on provisions and practice relating to incommunicado detention.

(i) What concrete steps have been taken to overcome the problems referred to in paragraph 57 of the report relating to the delays in judicial proceedings?

(j) In view of the statement in paragraph 50 of the report, please clarify what guarantees exist to ensure the independence and impartiality of the judiciary?

III. Freedom of movement and expulsion of aliens, right to privacy, freedom of religion, opinion and expression, and freedom of association and assembly (arts. 12, 13, 17, 18, 19, 20, 21 and 22)

(a) Please provide information on legislation and practice concerning authorized limitations on the right to protection of privacy (see para. 71 of the report).

(b) What laws or regulations govern the recognition of religious denominations by public authorities and how are those regulations applied in practice (see para. 4 of the core document)?

(c) Please provide further information on measures taken pursuant to Act No. 90-25 of 30 November 1990 concerning freedom of the press and describe current practice regarding censorship and control of the media (see para. 73 of the report).

(d) Please provide information on the steps which have been taken by the authorities following the "general strike and clashes" referred to in paragraph 64 of the core document as well as on deaths and injuries which occurred during those events. Please comment on the compatibility with article 21 of the Covenant of the provisions of articles 180 to 189 of the Penal Code relating to the punishment of "any demonstrations or meetings calculated to disturb the peace, violate law and order, damage public health or undermine the security of property and individuals" (see para. 79 of the report).

37. Mr. ASSOUMA (Togo), replying to the questions in section II and referring to the first question in subsection (b), said that the transitional period had been a very painful time in Togo's history, during which there had been many crimes and human rights violations. Numerous complaints had been filed with judicial bodies, but, in view of the fact that the State had not been in a position to exercise its authority, none of those complaints had been successful. Stagnation in the administration and the judges' strike accounted for a good part of that situation, which nevertheless had had one positive effect: no death penalties had been handed down during that period. In reply to the second question in subsection (b), he said that article 44 of the Penal Code limited cases in which the death penalty could be handed down.

38. Regarding subsection (c), he said that the laws in force went back to the colonial era, i.e. the beginning of the century, and were applicable to hunting rifles only. There were no specific texts governing the use of firearms by the police and the security forces. In practice, however, the use of such weapons was authorized only in cases of self-defence and abuses were punished. Plans were under way to issue regulations for that matter and he hoped that they would be adopted without delay.

39. The police and gendarmerie schools were responsible for training the forces of law and order. During the disturbances, certain police officers who had used their firearms and been identified had been prosecuted and were under arrest. Criminal proceedings were under way. In addition, the authorities intended to organize seminars to inform police and security officers of their obligations under the Covenant, in cooperation with the National Human Rights Commission.

40. Replying to the question in subsection (i), he explained that the Code of Criminal Procedure contained provisions that should make it possible to shorten the delays in judicial proceedings. An accused person who had not been tried within the legal time-limits could ask to be released. In addition, article 113 of the Penal Code stipulated that, in criminal matters, when the maximum sentence laid down by law was under two years' imprisonment, an accused person domiciled in Togo could not be detained for more than 10 days after his first appearance before the examining magistrate. The accused must also be released when his time in pre-trial detention was equal to half the maximum sentence involved, provided that the accused was a first offender. However, there were several difficulties in enforcing the right to be tried within a reasonable time in Togo, in particular the lack of qualified personnel and the scarcity of judges, whereas the number of offenders was constantly increasing.

41. With regard to subsection (j), he said that efforts were currently being made to restore autonomy to the judiciary. To that end, the Government had begun to consider several bills on the status of judges and the Supreme Council of Justice. Article 113 of the Constitution stipulated that the judiciary was independent of the legislative and executive branches in the exercise of its functions. Judges were subject to the authority of the law only. Generally speaking, he believed that the Togolese authorities should be able to report substantial improvements in the situation in a year or two. He also pointed out that judges were appointed by decree of the Council of Ministers on the proposal of the Supreme Council of Justice, and that provided a guarantee of their independence, while State prosecutors were appointed by decree of the Council of Ministers on the proposal of the Minister of Justice, with the Supreme Council of Justice issuing an opinion.

42. Replying to the questions in section III, beginning with those in subsection (d), he said that article 30 of the Constitution recognized and guaranteed, under the conditions set by law, the exercise of freedom of association and assembly and freedom to demonstrate peacefully and without instruments of violence. As a supplement to that provision, which was in conformity with article 21 of the Covenant, article 180 of the Penal Code provided that anyone who abused his right of assembly and demonstration to cause disturbances flouting the freedoms of others would be liable to a fine. In addition, article 189 of the Penal Code made it possible to exempt from that sentence anyone who denounced his accomplices before participation in a group crime. That measure was a sort of reward, the purpose of which was to prevent anyone so inclined from committing an offence.

43. Mr. GNONDOLI (Togo) said that he wished to add some information to that given by the head of his delegation. First of all, with regard to section II of the list of issues, specifically subsection (f), he acknowledged that there

was a significant delay in the submission of reports, both to the Committee and those for which the Togolese authorities were responsible under other international conventions. The Government was fully aware of those deficiencies and was making an attempt to remedy them. There were difficulties in that area at several levels: there was a lack of coordination, the technical training of the competent personnel was insufficient and the administration was virtually paralysed by the political situation that had prevailed since October 1990. However, the authorities were determined to take steps to improve the situation.

44. Referring to subsection (g), he explained that the prison administration was governed by a decree dating from 1933, in other words, before the country's independence. Under those provisions, an arrest warrant, detention warrant, committal order to the Court of Assize or conviction duly handed down by a court were necessary in order to detain an individual. In all other cases, detentions were considered to be arbitrary and the head warder of the prison concerned was liable to punishment. The prison administration was bound to provide appropriate food, clothing and bedding for the detainees, as well as the proper health conditions and medical care; it had to allow for some privacy and ensure proper ventilation of the premises. It also had to ensure that the number of detainees per cell was not excessive and that prisons were not overcrowded. Prisoners awaiting charge should be separated from prisoners already charged, minors from adults and men from women. In practice, however, there were some deficiencies in applying those provisions, in particular with regard to ventilation, bedding and clothing. That having been said, all prisons had an infirmary, however modest. In addition, regular entry registers were kept and families had visiting rights. Generally speaking, much remained to be done to improve the prisoners' health situation, access to information, vocational training and wages. The prison labour system was also poorly organized and overcrowding remained a problem. Reforms of the prison administration were therefore needed in order to improve the situation.

45. With regard to the question contained in subsection (h), he said that incommunicado detention did not exist in Togo. He repeated the requirements for placing an individual in detention, to which he had referred in his reply on subsection (g), and added that, given the small size of the national territory and the fact that information spread very rapidly in Togo, if a person were being held incommunicado, that would very quickly become known and the authorities could not fail to be aware of it.

46. Replying to the questions in section III, beginning with subsection (a), he said that the right to protection of privacy was inviolable in his country. There were, however, some limitations on the exercise of that right in practice, in particular regarding death sentences handed down by a court. Nevertheless, such limitations were applied in a very small number of cases, namely, when there had been intentional homicide, homicide with premeditation or ritual homicide. They were also applied in cases of crimes against the security of the State (espionage, bearing of weapons against the State, etc.). He added that, as far as capital punishment was concerned, in actual fact no death sentence had been handed down for quite some time. Death sentences were carried out in principle by firing-squad and were attended by the president of

the court that had handed down the verdict, a representative of the Public Prosecutor's Office, the convicted person's lawyer and the head of the prison administration. A pregnant woman could not be executed until she had given birth. Minors under 18 years of age could not be sentenced to death and, generally speaking, persons sentenced to death could be pardoned, with the execution of the penalty being suspended until the time-limit for the petition of clemency had expired.

47. Replying to the questions in subsection (b), he said that the recognition of religious denominations was regulated by an associations law of 1901, whose implementation order dated from 1945. Under the law, in order to be officially recognized, a religious association simply had to be declared to the Minister of the Interior. In the past, the full exercise of religious rights had been hindered as a result of abuses committed by certain denominations which had practised magic. In 1978, the authorities had been forced to take measures limiting the number of recognized religions to 10. As a result of the democratic movement that had begun in 1990, all those restrictions had been lifted and all religious associations were now free to function as they wished, provided that they respected the goal for which they had been set up and did not undermine public order or morality.

48. Replying to the questions in subsection (c), he said that freedom of the press was governed by Act No. 90-25 of 30 November 1990, which provided that printing presses, newspapers and bookstores were free of all constraints under the conditions defined in the Press Code. Before starting a publication, an individual had to submit a declaration containing his last name, first name and nationality, the title of the publication, its frequency of publication, the language in which it would be published, the place of registry in the trade register and the composition of its board of directors. In practice, however, freedom of the press was subject to certain restrictions aimed at ensuring that the exercise of freedom of expression did not undermine respect for the rights of others. Incitement to crime, insults, defamation and offences against honour were considered press offences. That having been said, if a person accused of one of those crimes provided evidence that the charges were groundless, the Public Prosecutor's Office was bound to stop prosecution.

49. There were no written provisions regarding censorship and control of the media, but he acknowledged that in practice the authorities did exercise some form of censorship and control, as was the case in many developing, and even developed, countries.

50. Mr. ASSOUMA (Togo) said that he would like to make a clarification concerning incommunicado detention. The Togolese authorities acknowledged that that practice had existed before the recent disturbances in the country. However, combating such detentions had been the first campaign launched by the National Human Rights Commission. The members of the Commission had noted that the police and gendarmerie forces had been detaining individuals beyond the time-limits for custody, even in debt cases. They had therefore visited police and gendarmerie stations and even prisons throughout the country to note cases of incommunicado detention. The practice had now completely disappeared. On another matter, the National Human Rights Commission had informed the population that anyone who considered that one of his fundamental

rights had been violated could appeal directly to the Commission. In cases where the individual was physically unable to do so, his family or a third person could act on his behalf.

51. Confessions were not considered to be evidence if they had been extracted through violence.

52. Lastly, in reply to the questions in subparagraph (d), he noted that the Togolese nation had experienced a crisis he qualified as inhuman, created by the indefinite general strike that had caused the population particularly acute suffering. At the time, the Togolese authorities had felt that dialogue and cooperation were the only way to bring the country out of the crisis. That was why the joint commission mentioned in paragraphs 60 et seq. of the core document (HRI/CORE/1/Add.38), which had basically looked into security matters, had been set up. In conclusion, he referred again to the contents of article 30 of the Constitution and articles 180 and 189 of the Penal Code.

53. The CHAIRMAN thanked the Togolese delegation for its replies and said that the Committee would continue its consideration of the second periodic report of Togo (CCPR/C/63/Add.2) at a later meeting.

The meeting rose at 6.05 p.m.